

*Consent To Transfer Control of Licenses, Leases and Authorizations at p.9. We consider this to indicate that the FCC is indeed beginning to bring the growth in the federal USF under control.*

When FTC Wireless previously sought designation as an ETC in Docket No. 2003-158-C, this Commission utilized a public interest test whereby we conducted a specific, fact-intensive analysis to determine whether the public benefits associated with the designation would outweigh the public costs created by supporting an additional ETC. Order No. 2005-5 at p. 26, ¶ 7. We have also stated that, in making a public interest determination, we must keep in mind as our overriding principle the purpose of universal service funding, which is to ensure that consumers in all regions of the nation have access to quality telecommunications services at just, reasonable, and affordable rates, and that the services and rates in rural, insular, or high cost areas are comparable to those in urban areas. Id. at p. 27, ¶ 8. As we stated in our prior order, the federal USF is and should be treated as a scarce national resource. Id. at p. 31, ¶ 15. Therefore, we must carefully weigh the costs and risks associated with granting an application for ETC designation against the benefits that would inure to the citizens of South Carolina by our grant of the requested ETC designation.

### III. FTC WIRELESS'S APPLICATION

FTC Wireless filed its Application on May 9, 2007. FTC Wireless is a wireless common carrier utilizing its own facilities to provide wireless voice and data services within the South Carolina counties of Clarendon, Lee, Sumter and Williamsburg and certain portions of Florence and Georgetown counties. FTC Wireless has been providing service to these areas since 1997, first as a reseller, and then as a facilities-based carrier beginning in March of 2001. (Hearing Tr. p. 13). In its Application, FTC Wireless described the area for which it sought designation as the area served by the Farmers Telephone Cooperative. (Petition, P. 1).

FTC Wireless provided evidence that it offers, or is prepared to offer, the nine supported services throughout its proposed ETC service area, and that it advertises the availability of each of the supported services throughout its licensed service area, by media of general distribution. (Hearing Tr. p. 15-17). FTC Wireless stated that it offers its services over its own facilities which connect to AT&T's wireless mobile switching office in Columbia, South Carolina where the calls are switched to the public switched network or to other wireless users on the network. (Hearing Tr. p. 21). No evidence was offered on the record by any party to refute or challenge FTC Wireless with respect to any of these requirements for ETC designation established by the FCC in its Rules at 47 C.F.R. § 54.101(a).

FTC Wireless also addressed how it will comply with each of the FCC requirements for ETC designation established by the FCC ETC Order and set forth in the FCC Rules at 47 C.F.R. § 54.202(a). :

1.(i). Commitment to provide service throughout the proposed designated service area to all customers making a reasonable request for service.

With regard to the requirement to provide service throughout the FTC Wireless designated area to all customers making a reasonable request, FTC Wireless indicated it would comply with the specific processes established by the FCC, consistent with Section 54.202(a)(1)(i). (Hearing Tr. p. 18).

1.(ii). Submission of a five-year plan.

FTC Wireless initially filed a two-year proprietary plan with its Petition. Subsequently, on July 2, 2007, FTC Wireless filed a revised five-year plan. The proprietary five-year plan provides detail for the first two years and additional specificity for the first year, setting forth proposed improvements and upgrades to FTC Wireless's network on both a cell site by cell site basis and a

wire center-by-wire center basis throughout its proposed designated ETC service area. The plan explains how FTC Wireless will specifically use universal service funds to improve signal quality, coverage capacity, and emergency back-up services. In addition to the submission of this five-year plan, FTC Wireless commits to provide the Commission with annual updates demonstrating its planned utilization of USF proceeds for any subsequent period as required by the Commission. FTC Wireless maintains that this will ensure that the Commission is provided specific detailed information on a continuing basis to assist the Commission in its determination regarding its annual certification of ETCs and their utilization of USF.

The first year of the proprietary five-year Plan that FTC Wireless submitted is detailed, including the projected start date and completion date for each improvement and the estimated amount of investment for each project that FTC Wireless proposes to implement as a result of the receipt of USF. In addition, the proprietary plan provides population information to demonstrate the approximate number of individuals residing in the areas where FTC Wireless proposes to utilize the universal service funds to improve service. FTC Wireless notes that the benefits of the use of the USF in the targeted areas, however, are not limited to those who reside in the areas because anyone who travels through the FTC Wireless service area is a potential beneficiary of the planned improvements. (Hearing Tr. p. 23-24.)

SCTC generally criticized the FTC Wireless five-year plan, claiming that the Plan lacks sufficient detail for the Commission to make its public interest analysis.

In response FTC Wireless submitted that: 1) its plan contains ample detail in years one and two and reasonable detail thereafter; 2) its application is consistent with the requirements and guidelines that the FCC has established; 3) that FTC Wireless will not expend a single USF dollar

without Commission approval; 4) it will report to the Commission on a continuing basis, consistent with the Commission's proposed regulations; 5) it will adjust its plan over time as the universal service needs of its community change; 6) it will utilize its best efforts to provide for network deployment that will achieve universal service goals; 7) it will provide reliable voice-grade universal service throughout the area in which it is designated an ETC; and 8) that it will adjust its network plans as needed. (Hearing Tr. p. 61-62).

The SCTC submits that the Plan must include detailed tower site locations beyond the first year of the entire five-year plan; suggests that the planned new tower sites are located in lower-cost areas that FTC Wireless currently serves; that the Plan must specify the type of equipment that will be utilized; and that FTC Wireless did not provide coverage maps that indicate how coverage will be improved by implementation of the Plan. (Hearing Tr. p.114-116). SCTC also contends that the FTC Wireless five-year plan demonstrates that FTC Wireless will use USF as a replacement for investments that FTC Wireless would otherwise make in the normal course of business. (Hearing Tr. p. 116-119).

FTC Wireless submits that the Coalition's criticism of the five-year plan demonstrates the flaws of basing a public interest determination on an evaluation of a five-year plan in the midst of the dynamic change that is occurring not only in the administration of USF, but in the entire telecommunications industry. FTC Wireless explained that predicting exact start and finish dates of new cell sites is of little value in the changing environment.

FTC Wireless notes that SCTC Witness Brown ultimately recognizes the impracticality of predicting "specific network improvement projects more than two years in the future." (Hearing Tr. p. 122)

FTC Wireless also responded to the SCTC criticism suggesting that the five-year plan demonstrated that FTC Wireless planned to utilize USF to provide service in lower cost areas and that its use of USF would simply replace investments FTC Wireless would make in any event. FTC Wireless testified that its network has been leveraged as much as possible, and asserted that remaining unserved areas and areas with marginal coverage may not realize any dependable wireless coverage without universal service funding. In addition, FTC Wireless contends that none of its rural South Carolina service area would be considered “low cost” by any applicable industry standards. FTC Wireless noted that the license to serve the area was previously held by Cingular (now known as AT&T) which had no plans to build out network to serve the rural area when FTC Wireless obtained the license through a partition agreement with Cingular. FTC Wireless explained that its service area cannot be considered low cost because more than 70% of its existing cell sites produce less than 500,000 minutes per month, a figure that FTC Wireless contends is two to four times below the volume that large carriers require to justify the build-out of a cell site. (Hearing Tr. 46-47; see also, Hearing TR. p. 33).

With respect to the SCTC complaint that the maps provided by FTC Wireless did not demonstrate the improvements in coverage that would be achieved through the use of USF, FTC Wireless responded during the confidential closed portion of the hearing. FTC Wireless explained and demonstrated how the maps were color coded and indicated both “before” and “after” coverage to demonstrate the coverage benefits that would result from the utilization of USF. (Hearing Tr. p.30-31).

2. Demonstration of ability to remain functional in emergency situations.

Regarding the requirement to remain functional in an emergency, FTC Wireless explained how it has prepared for emergencies with battery backup or permanent generators at all of its cell sites. FTC Wireless has also acquired cellular on wheels or “COWs” which are portable cell sites that can be driven to locations where emergency conditions have disrupted service or where a site experiences a spike in traffic. (Hearing Tr. p. 19).

3. Demonstration that the carrier satisfies applicable consumer protection and service quality standards.

With respect to the requirement for consumer protection and service quality standards, FTC Wireless indicated that it maintains regional offices throughout its rural South Carolina service area to facilitate the provision of service to the public, and its technical personnel are available to deal with emergency situations seven days a week, twenty-four hours a day. FTC Wireless has also adopted the Cellular Telecommunications and Internet Association's (the “CTIA”) Consumer Code for Wireless Service. If FTC Wireless is designated an ETC by the Commission, it committed to report annually both to the Commission and the FCC the number of customer complaints it receives each year per 1000 handsets in order to enable the Commission to measure how well FTC Wireless meets its commitment to consumer protection and service quality. (Hearing Tr. p. 19).

4. Demonstration that the carrier offers a local usage plan comparable to the one offered by the incumbent LEC in the service area for which it seeks designation.

With regard to the provision of local usage plans comparable to the one offered by the incumbent LEC, FTC Wireless will implement a service plan consistent with this requirement if it is designated an ETC. FTC Wireless also stated that its current calling plans are often considered

by consumers to be superior to traditional incumbent LEC service offerings because there is no rate distinction between “local” and “long distance” calls. The designation of FTC Wireless as an ETC and the receipt of universal service support will enable FTC Wireless to offer customers a new service offering designed to meet the needs of those customers whose primary interest is in obtaining a basic, low-cost wireless connection to the network. The new service offering will provide basic unlimited local calling at rates comparable to those offered by the incumbent LEC, the Farmers Telephone Cooperative. FTC Wireless stated that it cannot afford to provide this type of plan in the absence of universal service support. (Hearing Tr. p. 15 and 20).

5. Certification that the carrier acknowledges that the Commission may require it to provide equal access to long distance carriers in the event that no other ETC is providing equal access within the service area.

FTC Wireless also committed to the final additional FCC requirement to provide equal access to long distance carriers in the event that no other ETC is providing equal access within the service area. (Hearing Tr. p. 20-21).

Public Interest

FTC Wireless stated that the grant of its application would serve the public interest by enabling FTC Wireless to provide service to customers who may not otherwise be able to obtain wireless service. FTC Wireless will extend the availability of wireless service to those customers that may seek a low-cost connection to basic service with unlimited local coverage, as the Commission previously indicated should be included in a universal service offering by an ETC. FTC Wireless testified that its designation as an ETC will also produce the benefits of increased wireless coverage and emergency services as demonstrated in the proprietary build-out plan FTC Wireless has developed. FTC Wireless asserts that the receipt of universal service support will

enable it to construct facilities to offer service to currently unserved areas and improve the quality of service in areas of FTC Wireless's rural service area where market conditions alone would not warrant further investment. (Hearing Tr. p. 25-26).

FTC Wireless also explained that "cream-skimming" cannot result from the designation of FTC Wireless as an ETC. The FCC's concern about cream-skimming arises when a carrier seeking ETC status proposes to serve some, but not all, of a study area served by an incumbent rural local exchange carrier. This circumstance creates the possibility that the competitive ETC serves only the less costly to serve customers and the more lucrative customers. FTC Wireless submits that this cannot be the case with its request for ETC designation because FTC Wireless seeks designation as an ETC in the entire study area served by the Farmers Telephone Cooperative, and not just in a part of the service area. (Hearing Tr., p. 21-22).

In addressing the public interest considerations regarding its application, FTC Wireless observes the aspects of its current application that distinguish it from its prior application for ETC status before this Commission. In response to the Commission's prior concerns with respect to whether FTC Wireless's earlier proposed universal service offering would serve those customers who need basic low-cost connection to the network and unlimited local calling, FTC Wireless will implement a new service offering with unlimited local calling should it receive USF support whereby rural citizens residing in the FTC Wireless service area, who may not otherwise be able to afford wireless service, may utilize wireless service. (Hearing Tr. p. 24).

FTC Wireless also addressed the Commission's concern that its prior application did not provide sufficient specific information to assist the Commission in making an intensive fact-finding determination of whether the public interest would have been served by the designation of FTC



Wireless as an ETC. It provided very specific information to demonstrate how FTC Wireless would utilize universal service funding to offer new services, and how universal service funding will be allocated and used to build new towers and sites to bring quality service to specifically identified areas of rural South Carolina where market forces alone would not justify investment in infrastructure. In the process, local economies would benefit from direct investment and indirect benefits from improved infrastructure. In addition to the detailed submissions that FTC Wireless has submitted, FTC Wireless states that it stands committed on a continuing basis to provide the Commission with similar detail and reporting on an ongoing basis in order to ensure the Commission that it has the information necessary for it to determine that the utilization FTC Wireless makes of Universal Service Funds is consistent with the public interest. (Hearing Tr., p. 25.)

SCTC claims that the designation of FTC Wireless as an ETC will not serve the public interest. In support of this claim, SCTC cites the additional public cost of \$3.54 million per year. The SCTC believes that most of the USF FTC Wireless would receive would be spent on “capacity and technology upgrades in the lower cost portions of the service territory that FTC currently serves.” On this basis, SCTC asserts that designation of FTC Wireless as an ETC is not in the public interest because the increased public benefits of designating FTC Wireless as an ETC, SCTC believes, are far less than the costs. (Hearing Tr. p. 128-129 and 132-133).

In response, FTC Wireless submits that as a result of its designation as an ETC, twelve rural South Carolina communities and approximately 3,950 people will have new service or enhanced service after the first year of the plan. FTC Wireless reiterates that subsequent to its designation as an ETC, the Commission will have both the tools and the ability to ensure that FTC Wireless receives and expends USF dollars only in a manner that the Commission deems to be in

the public interest. FTC Wireless submits that the SCTC apparently confuses the legitimate and necessary lack of detail in a five-year plan with a lack of commitment to provide universal service throughout the area in which a carrier is designated an ETC and reiterates its commitment to universal service throughout the service area in which it seeks ETC designation. (Hearing Tr. 62-63).

In response to the SCTC contention that the designation of FTC Wireless as an ETC would have an adverse impact on the public because of the cost to the public associated with the ETC designation, FTC Wireless submitted evidence that the USF it would receive if it is designated an ETC would be less than 1/12 of 1% of the total federal USF high cost support program. (Hearing Tr. p. 56).

In sum, FTC Wireless argues that the designation of FTC Wireless as an ETC will serve the public interest by ensuring that the citizens of South Carolina receive some of the benefits of the funding of competitive carriers that consumers in 45 other states enjoy. Wireless maintains that its application for ETC status is consistent with the requirements and guidelines of the FCC and the proposed regulations of the Commission, and it requests that the Commission designate it as an Eligible Telecommunications Carrier in the wire centers shown in Exhibit A as attached to this Order.

#### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

After thorough consideration of the entire record including the testimony, exhibits and the applicable law, the Commission makes the following findings of fact with respect to FTC Wireless's application:

1. FTC Wireless is a common carrier authorized to provide Cellular Mobile Radio

Service throughout South Carolina.

2. FTC Wireless has operated for several years in South Carolina and has expressed its commitment to continuing and expanding its service to South Carolina residents through utilization of USF funds it would receive if its application for ETC status is approved.

3. FTC Wireless currently provides customers with several of the services that the FCC has required ETCs to provide. FTC Wireless has agreed to offer all of the nine services set forth in 47 C.F.R. §54.01(a) using either its own facilities or a combination of its own facilities and resale of another carrier's services.

4. FTC Wireless has submitted a plan detailing its planned expansion and improvement of network transmission facilities, emergency service equipment, and services should it receive federal USF funding.

5. FTC Wireless has reiterated that expansion of and improvements to facilities, equipment and services will not be initiated in the designated areas unless it receives USF funding.

6. Federal USF funding is intended to ensure that consumers in all regions of the nation have access to quality telecommunications services at just, reasonable, and affordable rates and that the services and rates in rural, insular, or high cost areas are comparable to those in urban areas in accordance with Section 254(b) of the Telecommunications Act. The grant of designation as an ETC to FTC Wireless would result in the expansion of service to currently unserved or underserved areas in the requested service area and extend service to lower income areas through the utilization of Lifeline and Link-Up services and new service offerings. FTC Wireless states it will advertise Lifeline and Link-Up services throughout the ETC designated areas through newspapers, television, radio, public exhibits and displays, and its website, should its application

for ETC status be approved.

7. Granting FTC Wireless ETC status would result in infrastructure development in the projected areas, which could promote economic development due to the availability of high quality wireless services.

8. Granting FTC Wireless's petition to be designated an ETC would bring additional federal USF funds into South Carolina.

9. FTC Wireless has provided substantial information to the Commission regarding its application and has indicated it is willing to provide any further information the Commission requests in the future.

10. The Commission has authority to impose additional requirements on carriers it designates as ETCs in South Carolina. In doing so, the Commission recognizes that the additional requirements adopted by the FCC as set forth in 47 C.F.R. § 54.202(a) are more stringent than the requirements previously used for ETC designation and these new requirements will be guiding principles in development of Commission rules established for ETC designation. The Commission further recognizes these guidelines were the underlying principles used in the Commission-promulgated rules filed with the Legislative Council for designation of new ETCs. While the Commission continues to develop its own rules as of the date of this order, it has chosen to proceed with review of the applications for ETC designation.

11. FTC Wireless has met all the necessary statutory and regulatory prerequisites established in 47 U.S.C. §214(e)(1) for designation as an ETC.

12. Pursuant to FCC guidelines, the Commission finds that it is in the public interest, as defined by the FCC, to grant FTC Wireless ETC status for the above-stated reasons.

13. The Commission is to submit an annual certification to the FCC that a carrier has remained in compliance with the ETC requirements and standards prior to an ETC receiving continued federal USF support. Should the Commission determine, upon FTC Wireless seeking recertification in subsequent years, that FTC Wireless has not honored or followed through on its commitments and plans as set forth before the Commission, the Commission may deny FTC Wireless's annual recertification, thereby precluding FTC Wireless from receiving further federal USF support.

IT IS, THEREFORE, ORDERED THAT:

1. The Commission has jurisdiction to designate FTC Wireless as an ETC pursuant to 47 U.S.C. § 214(e)(2) in the same service area served by the Farmers Telephone Cooperative in its capacity as an incumbent local exchange carrier.

2. FTC Wireless is hereby designated, effective as of the date of this Order, as an ETC in the wire centers shown in Exhibit A as attached to this Order, and is eligible to receive all available support from the federal USF, including support for rural and "high-cost" areas and "low income" customers within its designated service territory.

3. All federal USF funding received as a result of this Order will be used to support the expansion and improvement of services in designated areas and to provide Lifeline and Link-Up program funds to low income customers.

4. FTC Wireless shall advertise to the public in its ETC-designated area that it is offering the supported universal services, and the charges for those services, in local circulation newspapers. FTC Wireless shall also advertise to the public the availability of Lifeline and Link-Up services in a manner reasonably designed to reach those likely to qualify for such services.

5. FTC Wireless shall abide by its commitment to provide service throughout its ETC-designated service area to all customers, including low income customers, making a request for service, the reasonableness of which may be determined by ORS.

6. FTC Wireless shall abide with all applicable statutes, rules, and regulations affecting ETC status and obligations. FTC Wireless shall also abide by the requirements and standards which may be established by this Commission in Docket No. 2006-37-C.

7. FTC Wireless shall comply with all annual reporting and certification requirements as set forth by applicable statutes, rules, and regulations.

8. Should the Commission determine FTC Wireless has not honored its commitments and plans as set forth before the Commission, or has failed to follow the applicable statutes, rules, or regulations, the Commission may deny FTC Wireless's annual recertification, effectively revoking FTC Wireless's designation as an ETC.

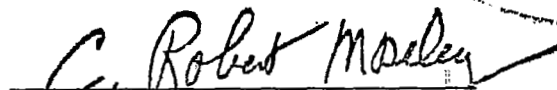
9. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:



G. O'Neal Hamilton, Chairman

ATTEST:

  
C. Robert Moseley, Vice Chairman

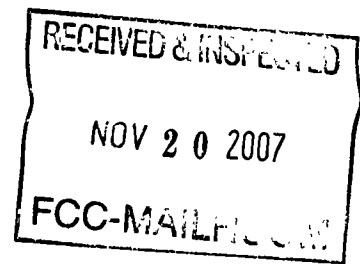
(SEAL)



**NECA Serving Area: 240520**  
**Wire Centers**

<u>Exchange Name</u>	<u>CLLI</u>	<u>NPA-NXX(s)</u>
Bishopville Rural	BSVLSCAVRSO	803-423, 428
Greeleyville	GRVLSCXARSO	843-426
Lane	LANESCXARSO	843-387
Lynchburg	LYBGSCXARSO	803-437
Mayesville	MYVLSCXARSO	803-453
North Kingstree	NKGSSCXADSO	843-201, 382
North Manning	NMNGSCXARSO	803-473, 505
North Sumter	NSMTSCXBDSO	803-469, 491, 905, 983
North Summerton	NSTNSCXARSO	803-478
Oakland	OKLDSCXARSO	803-498, 499
Pinewood	PNWDSCXARSO	803-452
Pocalla	POCLSCXARSO	803-481, 506
Scranton	SCTNSCXARSO	843-210, 389
East Sumter	SMTRSC02RSO	803-495
Stateburg	STBGSCXARSO	803-494, 501
Turbeville	TBVLSCXARSO	843-657, 659
West Andrews	WANDSCXARSO	843-221

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA



DOCKET NO. 2003-227-C – ORDER NO. 2007-804

NOVEMBER 14, 2007

Application of Hargray Wireless, LLC	)	ORDER DESIGNATING HARGRAY
for Designation as an Eligible	)	WIRELESS, LLC AS AN ELIGIBLE
Telecommunications Carrier under	)	TELECOMMUNICATIONS CARRIER
47 U.S.C. 214 (e)(2)	)	

**Introduction And Jurisdiction Of The Commission**

This matter is before the Public Service Commission of South Carolina (“the Commission”) on the Application of Hargray Wireless, LLC (“Hargray”) for designation as an eligible telecommunications carrier (“ETC”) under 47 U.S.C. § 214(e)(2). Hargray filed its Application on July 24, 2003, and amended its Application on June 20, 2006.

South Carolina Telephone Coalition (“SCTC”) and United Telephone Company of the Carolinas d/b/a Embarq (“Embarq”)<sup>1</sup> intervened.<sup>2</sup> ORS was a party pursuant to statute. The public hearing was held at the Commission offices on June 28, 2007, with the Honorable G. O’Neal Hamilton, Chairman, presiding. At the hearing, William W. Jones, Esquire, and David LaFuria, Esquire, represented Hargray. John Bowen, Esquire, and Margaret Fox, Esquire,

---

<sup>1</sup> Embarq filed a motion to intervene out of time on June 5, 2007. The Commission granted the motion on July 2, 2007, in Order No. 2007-438.

<sup>2</sup> MCI Communications, Inc. and Verizon Communications, Inc. also intervened but did not participate in the hearing.



represented the SCTC. Scott Elliott, Esquire, and H. Edward Phillips, Esquire, represented Embarq. C. Lessie Hammonds, Esquire, and Shealy Boland Reibold, Esquire, represented ORS. Section 254(e) of the Act provides that “only an eligible telecommunications carrier designated under section 214(e) shall be eligible to receive specific federal universal service support.”<sup>3</sup>

Pursuant to section 214(e)(1), a common carrier designated as an ETC must offer and advertise the services supported by the federal universal service mechanisms throughout the designated service area.<sup>4</sup> Section 214(e)(2) of the Act gives state commissions the primary responsibility for performing ETC designations.<sup>5</sup> By this Application, Hargray seeks authorization to receive support from the federal Universal Service Fund (“USF”) for use within Hargray’s licensed service area in South Carolina. Pursuant to Section 47 U.S.C. § 214(e)(2), this Commission has jurisdiction to designate a competitive carrier as an ETC.

#### **Requirements for Designation**

The Commission may, with respect to an area served by a rural telephone company, and shall, in all other cases, designate more than one common carrier as an ETC for a designated service area, consistent with the public interest, convenience, and necessity, so long as the requesting carrier meets the requirements of section 214(e)(1).<sup>6</sup> Before designating an additional ETC for an area served by a rural telephone company, the Commission must determine that the designation is in the public interest.<sup>7</sup>

---

<sup>3</sup> 47 U.S.C. § 254(e).

<sup>4</sup> 47 U.S.C. § 214(e)(1).

<sup>5</sup> 47 U.S.C. § 214(e)(2).

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

An ETC petition must contain the following: (1) a demonstration of the petitioner's capability and commitment to offer all services that are supported by the USF; (2) a demonstration of the petitioner's capability and commitment to offer the supported services "either using its own facilities or a combination of its own facilities and resale of another carrier's services"; (3) a description of how the petitioner will "advertise the availability of the [supported] services and the charges therefor using media of general distribution"; and (4) a detailed description of the geographic service area for which it requests an ETC designation from the Commission.<sup>8</sup>

### DISCUSSION

#### Basic Qualifications

##### Offering the Services Designated for Support.

Hargray has demonstrated through the required certifications and related filings that it now offers, or will offer upon designation as an ETC, the services supported by the federal universal service mechanism. As noted in its petition, Hargray is authorized as the C Block Personal Communication Service ("PCS") provider in South Carolina Basic Trading Area ("BTA") No. 410, which covers, in South Carolina, the counties of Beaufort, Hampton, and Jasper.<sup>9</sup> Hargray states that it currently provides or will provide all the services and functionalities enumerated in section 54.101(a) of the Federal Communications Commission's ("FCC") rules throughout its designated ETC service area in South Carolina, and that it will advertise the availability of those services throughout the designated ETC service area by media

---

<sup>8</sup> 47 U.S.C. § 214(e)(1); 47 C.F.R. § 54.201(d). *See also North Carolina RSA 3 Cellular Telephone Company*, CC Docket No. 96-45, Order (rel. Aug. 14, 2006) at para. 5, citing "Procedures for FCC Designation of Eligible Telecommunications Carriers Pursuant to Section 214(e)(6) of the Communications Act," Public Notice, 12 FCC Rcd 22947, 22948 (1997).

<sup>9</sup> Hargray Application at pp. 1-2.

of general distribution.<sup>10</sup> Hargray has also committed to make available and advertise low-income discounts under the federal Lifeline and Link-Up programs to qualifying low-income consumers.<sup>11</sup>

Hargray has further committed to comply with the FCC's rules set forth at 47 C.F.R. Section 54.202 and 54.209,<sup>12</sup> which were recently adopted by this Commission to govern ETC designations on an interim basis.<sup>13</sup> These commitments include: (1) adherence to the disclosures and practices set forth in the CTIA Consumer Code for Wireless Service; (2) annual reporting of unfulfilled service requests and of complaints per 1,000 handsets; (3) demonstration of ability to function in emergencies and annual reporting of network outages; (4) specific commitments to provide service to requesting customers in the area for which it is designated; and (5) specific commitments to improve its existing network with the use of high-cost support.<sup>14</sup>

Hargray has demonstrated that it has at least one rate plan that offers a level of local usage that is comparable to the ILECs where it proposes to be designated. Hargray's "Local Unlimited Plan" costs \$20 per month and provides unlimited local calling within three counties in South Carolina and sixteen counties in Georgia.<sup>15</sup> That rate plan is comparable to ILEC

---

<sup>10</sup> *Id.* at pp. 3-6. The FCC has defined the services that are to be supported by the federal universal service support mechanisms to include: (1) voice grade access to the public switched network; (2) local usage; (3) dual tone multifrequency (DTMF) signaling or its functional equivalent; (4) single-party service or its functional equivalent; (5) access to emergency services, including 911 and enhanced 911; (6) access to operator services; (7) access to interexchange services; (8) access to directory assistance; and (9) toll limitation for qualifying low-income customers. 47 C.F.R. § 54.101(a).

<sup>11</sup> *Id.* at p. 6.

<sup>12</sup> See Amendment to Application for Designation as an Eligible Telecommunications Carrier ("2006 Amendment").

<sup>13</sup> See Commission Order No. 2007-424.

<sup>14</sup> See 2006 Amendment at pp. 1-6; Tr. 17-21.

<sup>15</sup> Tr. 41 at lines 17-22; 2006 Amendment at pp. 6-8.

offerings in the state.<sup>16</sup> No party disputed Hargray's compliance with the local usage requirement.

Offering the Supported Services Using a Carrier's Own Facilities.

Hargray has demonstrated that it satisfies the requirement of Section 214(e)(1)(A) of the federal statute that it offer the supported services using either its own facilities or a combination of its own facilities and resale of another carrier's services.<sup>17</sup> Hargray states that it intends to provide the supported services using its cellular network infrastructure, which includes its "antenna, cell-site tower, trunking, mobile switching, and interconnection facilities."<sup>18</sup> Hargray has also identified several small areas within its proposed ETC service area where it is not authorized by the FCC to provide facilities-based services.<sup>19</sup> In areas where Hargray cannot provision service immediately with its own facilities, Hargray has committed to provide service to requesting customers either through resale of an ILEC's services or through roaming agreements with other wireless carriers.<sup>20</sup>

On cross examination, Mr. Pence confirmed that Hargray currently has roaming agreements in place with all the other carriers in its area,<sup>21</sup> and that while ordinary customers pay roaming charges in such areas, those who request service there would have the ability to choose Hargray's rate plans and not pay roaming charges.<sup>22</sup>

---

<sup>16</sup> Tr. 42 at lines 15-22.

<sup>17</sup> 47 U.S.C. § 214(e)(1)(A). Hargray Application at pp. 3-6; Tr. 16 at lines 15-17.

<sup>18</sup> See Hargray Application at 3, 4-8.

<sup>19</sup> See 2006 Amendment at pp. 9-10.

<sup>20</sup> See id. at pp. 3-5; Tr. 44 at line 3 - 45 at line 10.

<sup>21</sup> Tr. 99 at lines 19-20.

<sup>22</sup> Tr. 105 at line 19 - 106 at line 1; Tr. 106 at lines 18-24.

Hargray has committed to offer its services in response to all reasonable requests for service pursuant to the process set forth in the FCC's *ETC Report and Order*.<sup>23</sup> Hargray testified that it has a successful record in South Carolina, having operated in the state since 1998, growing its business from a start-up to its current level of 58,000 subscribers.<sup>24</sup> The company has a 98% call completion rate, it offers numerous advanced services, and it has a 24/7 hotline for after hours repair service.<sup>25</sup> The company has implemented Phase II E-911 service and is prepared to roll out Phase II functionality throughout every area where a PSAP has made a request for service, and is therefore in compliance with 47 C.F.R. § 20.18.<sup>26</sup> Hargray's senior management has significant experience operating wireless telephone systems.<sup>27</sup>

No party introduced credible evidence refuting Hargray's capability and commitment to offer the supported services. The reporting requirements that we have adopted provide the Commission with sufficient annual information to measure a carrier's compliance with these requirements and Hargray has committed to comply with them.<sup>28</sup>

#### Advertising Supported Services.

Hargray has committed to the requirements of 47 U.S.C. Section 214(e)(1)(B) to advertise the availability of the supported services and the related charges "using media of general distribution."<sup>29</sup> These methods may include newspaper, magazine, direct mailings, public

---

<sup>23</sup> See 2006 Amendment at pp. 3-5; see Tr. 19-21, 43. See also *Federal-State Joint Board on Universal Service, Report and Order*, 20 FCC Rcd 6371, 6381 (2005) ("*ETC Report and Order*").

<sup>24</sup> Tr. 45.

<sup>25</sup> Tr. 19, 45-46.

<sup>26</sup> Tr. 46.

<sup>27</sup> Tr. 47.

<sup>28</sup> See Commission Order No. 2007-424; Tr. at 54-56.

<sup>29</sup> See Hargray Application at p. 6; Tr. 40-41.

exhibits and displays, bill inserts, and telephone directory advertising.<sup>30</sup> In addition to its current advertising methods, Hargray has committed to publicizing the availability of Lifeline and Link-Up services by including these services in its future advertising and by reaching out to community health, welfare, and employment offices to provide information to people who are likely to qualify.<sup>31</sup> Thus, Hargray plans to use advertising to insure that consumers within its designated service area are fully informed of its universal service offering.

#### Public Interest Analysis

As explained below, we conclude that it is consistent with the public interest, convenience, and necessity to designate Hargray as an ETC for the portion of its requested service area that is served by the non-rural telephone company, Verizon South, as listed in Exhibit B to the Application. We conclude that it is in the public interest to designate Hargray as an ETC in South Carolina in the portion of its requested service area that is served by the rural telephone companies, Hargray Telephone Company, Inc. and Bluffton Telephone Company, Inc., as set forth in Exhibit C to the Application.

We also conclude that it is the public interest to designate Hargray as an ETC in South Carolina in the requested wire centers in the area served by the rural telephone company Embarq, as listed in Exhibit D to the Application. We conclude that Hargray has satisfied the burden of proof in establishing that its universal service offering in these areas will provide benefits to rural and non-rural consumers.

---

<sup>30</sup> See Hargray Application at p. 6.

<sup>31</sup> *Id.* at p. 6.

*In its evaluation of Hargray's Application, the Commission must determine whether the requested designation is in the public interest.*<sup>32</sup> In areas served by a non-rural telephone company, the federal statute requires a state commission to designate an additional CETC that meets the requirements of Section 241(e)(1), consistent with the public interest, convenience, and necessity.<sup>33</sup> In areas served by a rural telephone company, the state commission must determine whether the public interest would be served by a grant.<sup>34</sup>

An analysis of the public interest requires consideration of the benefits of increased consumer choice and the unique advantages and disadvantages of the applicant's service offering.<sup>35</sup> When an ETC applicant seeks designation below the study area of a rural telephone company, a creamskimming analysis is conducted to compare the population density of the wire centers in which the ETC applicant seeks designation against that of the wire centers in the study area in which the ETC applicant does not seek designation.<sup>36</sup>

We find Hargray's universal service offering will provide a variety of benefits to customers including consumer choice and advantageous service offerings. For instance, universal service support will enable Hargray to construct facilities to improve quality of service and extend telephone service to people who have no choice of telephone provider.<sup>37</sup> Hargray has demonstrated that its network is strong in Hilton Head and surrounding coastal areas that are

---

<sup>32</sup> 47 U.S.C. § 214(e)(2); In determining whether the public interest is served in an ETC petition, the Commission also places the burden on the ETC applicant. *See ETC Report and Order, supra*, 20 FCC Rcd at 6390, para. 44.

<sup>33</sup> 47 U.S.C. § 214(e)(2).

<sup>34</sup> *Id.*

<sup>35</sup> *See* 47 C.F.R. § 54.202(c); *ETC Report and Order*, 20 FCC Rcd. at 6392-95, paras. 48-53.

<sup>36</sup> *See id.*

<sup>37</sup> Hargray Application at p. 13.

densely populated, but that its network requires significant upgrades in the inland areas, where its signal coverage is not as strong.<sup>38</sup>

We find that Hargray's ability to expand coverage and improve its service quality will have important health and safety benefits in South Carolina. Hargray's construction plan includes numerous upgrades that will significantly expand its network coverage in high-cost areas within the state.<sup>39</sup> Witness DeBardelaben testified that each of the cell site change-outs that Hargray proposes to implement with high-cost support will increase the cell site's effective coverage by 15-25%.<sup>40</sup> In addition, the company has committed to construct additional cell sites to fill in uncovered areas.<sup>41</sup> We accept Hargray's testimony that its drive tests indicate that no carrier has a high-quality wireless service throughout the proposed ETC service area.<sup>42</sup> We find that this investment will benefit South Carolina consumers and will provide an efficient way to get coverage out to areas with weak or no coverage.<sup>43</sup>

With new coverage naturally comes increased access to 911 and E-911 service.<sup>44</sup> Rural consumers require such services just as much as those in urban areas. The improved 911 and E-911 access that will be delivered as a result of new and improved network coverage is in the public interest in Hargray's proposed ETC service area. We accept Hargray's testimony that its

---

<sup>38</sup> Tr. 16 at lines 18-23; Tr. 96 at line 12 – 97 at line 4. *See also* Exh. 2.

<sup>39</sup> We reject SCTC's objection that Hargray's proposed investments will not deliver sufficient new service coverage. SCTC did not offer a witness who is an expert in wireless network design. In contrast to Mr. DeBardelaben, whose testimony described Hargray's network and the manner in which service quality and coverage would be improved through the use of high-cost support, Mr. Brown is not a radiofrequency engineer and has never designed a wireless network. *Compare* Tr. 283-84 with Tr. 15-16.

<sup>40</sup> Tr. 30-31.

<sup>41</sup> *See* Hargray Application at pp. 10-11; 2006 Amendment at pp. 5-6; Hr. Exh. 1 at Appendices A-C; Hr. Exh. 7 at Appendices D-E; Tr. 17 at lines 6-9; Tr. 48 at lines 1-8.

<sup>42</sup> Tr. 31 at lines 5-14.

<sup>43</sup> Tr. 174-76, 185-86.

<sup>44</sup> Tr. 50 at lines 1-5.



new network coverage in its first year will be “significant,”<sup>45</sup> that cell site modifications will quickly provide improved coverage,<sup>46</sup> and that 37 new cell sites proposed in the build plan will deliver new and improved coverage in rural South Carolina.<sup>47</sup>

We accept Hargray’s commitment to use all available support as required by federal law. We also accept Hargray’s initial five-year plan as sufficient to support a grant of this petition. We note that Hargray removed planned investments in an “EV-DO” upgrade in years four and five because those facilities have mixed use between voice and data.<sup>48</sup> While a “mixed use” investment is an acceptable use of support,<sup>49</sup> we understand Hargray’s willingness to be cautious in its planning.<sup>50</sup> We also accept Mr. Pence’s unequivocal testimony that the company will invest all of the support it receives and that it will revise its plan to set forth qualifying investments as required by the Commission.<sup>51</sup> Hargray will be required to update its plans as set forth in the Commission’s new rules, which we expect to adopt in the near future, to include qualifying investments that demonstrate its willingness to invest all available support lawfully.

---

<sup>45</sup> Tr. 101 at lines 16-17.

<sup>46</sup> Tr. 83-84.

<sup>47</sup> See Hr. Exh. 1 at Appendix B.

<sup>48</sup> See letter dated June 18, 2007, from William W. Jones, Jr. to Charles L.A. Terreni (“June 18 Letter”); Tr. 58 at lines 7-21.

<sup>49</sup> *Federal-State Joint Board on Universal Service, Fourteenth Report and Order, Twenty-Second Order on Reconsideration, and Further Notice of Proposed Rulemaking*, 16 FCC Rcd 11244, 11322, para. 200 (2001) (“*Fourteenth Report and Order*”) (“Contrary to the arguments of some commenters, use of support to invest in infrastructure capable of providing access to advanced services does not violate section 254(e), which mandates that support be used ‘only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.’ The public switched telephone network is not a single-use network. Modern network infrastructure can provide access not only to voice services, but also to data, graphics, video, and other services. High- cost loop support is available to rural carriers ‘to maintain existing facilities and make prudent facility upgrades[.]’ Thus, although the high-cost loop support mechanism does not support the provision of advanced services, our policies do not impede the deployment of modern plant capable of providing access to advanced services.”) (footnotes omitted).

<sup>50</sup> Tr. 58, 101-02.

<sup>51</sup> Tr. 102, 106-07.